from the lips of a Chinese shopkeeper in a place like Segari. It is, moreover, significant in this connection that when the second statement was taken from the appellant he was allowed to speak in his own language and what he said was translated into English by a Chinese interpreter. Nevertheless, I do not think that there is room for doubt that although the words of the first statement as written down may not have been the exact words which issued from the lips of the appellant, they accurately represent the substance of what he said and intended to say, and on this ground of appeal alone I would not have been prepared to interfere with the conviction.

The conviction, however, to my mind is open to objection on grounds other than those raised by the appellant.

Intentionally giving false evidence is an offence punishable under section 193 of the Penal Code and by section 191 of that Code it is laid down that

"Whoever, being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, is said to give false evidence."

In the present case on both occasions when the appellant gave evidence he did not do so on oath in a judicial proceeding but he did so in the course of a police investigation under Chapter XIII of the Criminal Procedure Code. In the circumstances the only express provision of law which required him to state the truth was that contained in section 112 of the Code. That section provides that a Police officer making a police investigation may examine orally any person supposed to be acquainted with the facts and circumstances of the case and goes on to say:—

"Such person shall be bound to answer truly all questions relating to such case put to him by such officer".

That section, it is to be noted, does not require a person interviewed by the Police in the course of a police investigation to make a statement the whole of which is true. It only compels him to give truthful answers to such questions as may be put to him.

In the present case the Prosecution have failed to prove that either of the statements contained in the charge were uttered by the appellant in reply to questions put to him. There is no evidence that any questions at all were put to him and though perhaps it might reasonably be inferred from the ordinary practice of the Police that some questions were put, there is no evidence whatsoever as to what these questions wese or, in particular, as to whether the specific statements complained of were made in answer to questions. That being so, there was no evidence to shew that in making these statements the appellant was bound to state the truth and therefore he should not have been convicted.

I am confirmed in the conclusion at which I have thus arrived by certain Indian cases which, though they may not be binding on me, are of considerable value in the interpretation of a portion of our law which has been imported from India. The law here relating to false evidence is the same as that contained in the Indian Penal Code, and section 112 of our Criminal Procedure Code is exactly the same as section 161 of the Indian Criminal Procedure Code of 1882 although it differs from corresponding section of the existing Indian Code which omits the word 'truly' from the portion I have already quoted. In 1889 the question with which I am here concerned came before the Calcutta Courts in the case of *The Empress v. Baikanta Bauri*[1] a case in which the circumstances bore a very remarkable resemblance to the present one. Mitter and Macpherson, JJ. referred to section 161 of the Code (that is the 1882 Code) and proceeded to make the following observations:—

"The second paragraph of that section declares that a person examined by a police officer under the provisions of it 'shall be bound to answer truly all questions relating to such case put to him by such officer.' Before an accused person can be held guilty under section 193 (of the Penal Code), it is, therefore, necessary that it should be shown by the evidence that the statement which is set out in the charge was a statement in answer to questions put by the investigating police officer to the accused. That this statement was made in answer to any question put by the investigating police officer is not established by any evidence . . . . . The statement . . . was made by the accused to the head constable . . . Upon the establishment of this fact alone, without any proof that the statement was in answer to questions put by the head constable, we are of opinion that the accused cannot be convicted of giving false evidence under section 193 even if that statement be proved to be false."

The same view was expressed in 1892 in the Allahabad case of *Queen-Empress v. Bhagwantia*[2] where it was said by Edge, C.J., and Tyrrell, J.:—

"The test as to whether a case comes within paragraph 2 of section 161 of the Code of Criminal Procedure, 1882, is — was a question put to the person by the police officer, and was what was stated by that person stated in answer to that question?"

The appeal is allowed and the conviction quashed.

Appeal allowed.

FOONG KOOI v. WONG CHING (F).

[App. Civ. Juris. (Hill, J.) May 18, 1950]
[Ipoh — Civil Appeal No. 6 of 1950]

Landlord and Tenant — Control of Rent Ordinance, 1948, s. 12 — Right of appeal — Control of Rent (Amendment) Ordinance, 1949, s. 11.

In this case the appellant applied to the Rent Assessment Board, Kinta, for an order granting him permission to eject the respondent from No. 54 Cowan Street, Ipoh. Though this application was for an order which the Board had no power to make, it was nevertheless entertained by the Board, and treated as an application under section 12 of the Control of Rent Ordinance for permission to apply to a Court for an order for ejectment. The Board refused permission to the applicant to apply for leave to eject the respondent from No. 54, Cowan Street, Ipoh. The appellant appealed against this order.

Held, that no appeal lies from a decision of the Board, either granting or refusing permission made under section 12 of the Control of Rent Ordinance, 1948.

Case referred to :—

(1) *Teh Say Mooi v. Tan Chor Leng* 1 M.L.R. 42; (1950) M.L.J. 90.

CIVIL APPEAL from a decision of Rent Assessment Board, Kinta.

M. S. Mahendran for the appellant.

Yeoh Cheang Lee for the respondent.

Hill, J. : —The appellant by an application dated the 12th December, 1949, applied to the Rent Assessment Board, Kinta, for an Order granting him permission to eject the respondent from premises at No. 54, Cowan Street, Ipoh. Though this application was for an Order which the Board had no power to make, it was nevertheless entertained by the Board, and apparently treated as an application under section 12 of the Control of Rent Ordinance for permission to apply to a Court for an order for ejectment. On the 15th February, 1950, the Board gave the following decision, which is headed 'Order', and reads as follows :—

"ORDER.

PREMISES No. 54, COWAN STREET, IPOH.

THIS APPLICATION coming on for hearing the 15th day of February, 1950 in the presence of Mr. M. S. Mahendran of Counsel for the applicant abovenamed and Mr. Yeoh Cheang Lee of Counsel for the respondent abovenamed and upon reading the Grounds of application herein and upon hearing the evidence of the parties THIS BOARD DOTH refuse permission to the applicant to apply for leave to eject the respondent from premises No. 54 Cowan Street, Ipoh.

Dated this 15th day of February, 1950.

President,

Rent Assessment Board,

Kinta."

It is first necessary to consider whether there is a right of appeal from a decision of the Board refusing permission to apply to any Court for an order for ejectment.

The only provision in the Control of Rent Ordinance relating to appeals is to be found in section 11, which reads as follows :—

"11. No appeal shall lie from an order of the Board except on a point of law."

On behalf of the appellant Mr. Mahendran urged that "Order" and "Decision" are convertible terms and that the refusal by a Board of permission to apply to a Court is tantamount to an Order. He submitted that to hold otherwise would place too restricted an interpretation on the meaning of Order.

It is not easy from the somewhat confused piece of legislation resulting from Ordinances No. 6 of 1948 and No. 61 of 1949 to ascertain exactly what was the intention of the Legislature. Originally in section 2 "Order of the Board" was defined and the original section 11 gave the right of appeal from an Order which the Board was not empowered to make.

The definition was deleted and section 11 amended to its present form by Ordinance No. 61 of 1949.

The powers of the Board to make Orders are defined in section 8(1) (b) and by paragraph (c) in the same sub-section the Board is further empowered to hear and determine applications made under section 12.

I do not propose to discuss the differences between decisions and orders and I am unable to construe the relevant sections of the Control of Rent Ordinance as conveying any indication that an Order of the Board is synonymous with and to be regarded as the same as a decision of the Board relating to an application made under section 12.

Whether a dissatisfied applicant has a remedy by way of one of the prerogative writs is a question that does not at present arise and need not here be considered, but for the reason stated above I am of the opinion that no appeal lies from a decision of the Board, either granting or refusing permission, made under section 12, and this appeal is dismissed with costs.

Nevertheless, I wish to refer to the judgment in *Teh Say Mooi v. Tan Chor Leng*[1] and to point out that in my view the Board usurped the functions of a Court in refusing permission to the appellant for the reason given in its Grounds of Judgment and was wrong in so refusing permission for the reasons set out in the judgment above referred to.

Appeal dismissed.